

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE HERNANDEZ-SIERRA,

Defendant.

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8:04CR486

ORDER

This matter is before the court on defendant's motion to continue trial (#35). Defendant has filed a speedy trial waiver (#37) in compliance with NECrimR 12.1. Based on the representation that the defendant underwent surgery on November 30, 2005, I find that the case should be continued to the next available trial setting, i.e., February 14, 2006.

IT IS ORDERED that defendant's Motion to Continue Trial (#35) is granted, as follows:

1. Trial of this matter is continued from December 6, 2005 to **February 14, 2006** before Judge Laurie Smith Camp and a jury.

2. The ends of justice will be served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **December 6, 2005 and February 14, 2006**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act for the reasons stated in the motion, and considering the diligence of counsel. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED December 1, 2005.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**